

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY WISE,	)	Case No. 06-7360 SC
)	
Plaintiff,)	
	)	ORDER REQUIRING
v.	)	PLAINTIFF'S
	)	RESPONSIVE BRIEF AND
RELIASTAR LIFE INSURANCE COMPANY;	)	STAYING DISCOVERY
and DOES 1 through 20, Inclusive	)	DEADLINE ONLY FOR THE
	)	TWO NEUROPSYCHIATRIC
Defendants.	)	EXAMINATIONS
	)	REQUESTED BY
	)	<u>DEFENDANT</u>

I. INTRODUCTION

This matter comes before the Court on Defendant's Application for Order Shortening Time to Hear Defendant's Motion to Compel Plaintiff to Submit to Independent Medical Examination ("Application to Shorten Time"), Defendant's Motion to Compel Plaintiff to Submit to Medical Examination ("Mot. to Compel"), and Defendant's Request for Judicial Notice ("Req. for Judicial Notice"). See Docket Nos. 26, 29, 31.

For the following reasons, the Court DENIES the Application to Shorten Time. In addition, the Court defers ruling on the Motion to Compel until Plaintiff has had the opportunity to file an opposition. Finally, Defendant's Request for Judicial Notice is DENIED.

II. BACKGROUND

On October 13, 2006, plaintiff Mary Wise ("Plaintiff"), filed a complaint in the Superior Court of California alleging that defendant Reliastar Life Insurance Company ("Defendant") unlawfully refused to pay Plaintiff's disability benefits. Compl. ¶¶ 3-5, Ex. A, Attach. to Def.'s Pet. for Removal, Docket No. 1. Defendant filed a Petition for Removal to the United States District Court on November 30, 2006. Docket No. 1. The parties had previously agreed to a schedule for discovery. Docket No. 22.

On September 19, 2007, Defendant filed the Application to Shorten Time, the Motion to Compel and the Request for Judicial Notice.

III. DISCUSSION

Before the Court rules on Defendant's Motion to Compel, the Court invites Plaintiff to file opposition papers to this motion. This opposition must be filed no later than 12:00 p.m., Wednesday, October 3, 2007, at which time the Court will deem the matter submitted. The discovery deadline for the two neuropsychiatric exams requested by Defendant is hereby stayed pending resolution of this matter. The deadlines for all other discovery matters remain unchanged from the Court's Order regarding the Stipulation Re Setting Additional Deadlines for Expert Discovery. See Docket No. 22. Pursuant to this Stipulation, the deadlines for discovery are as follows: for non-expert discovery, September 28, 2007; for expert disclosures, October 8, 2007; for rebuttal/supplemental expert disclosures, October 22, 2007; and for expert discovery,

1 November 8, 2007. See id.

2 Defendant filed the Application to Shorten Time in an effort
3 to seek the two neuropsychiatric exams before the first discovery
4 deadline. The discovery deadline for these two exams, however, is
5 stayed. Thus, Defendant's Application to Shorten Time is
6 unnecessary and is therefore denied.

7 Finally, Defendant has requested that the Court take judicial
8 notice of Plaintiff's original Complaint filed in Superior Court
9 and two recent decisions by Magistrate Judges in this district.
10 See Req. for Judicial Notice at 1. Defendant, however, has
11 offered no reason why judicial notice regarding these documents
12 has been requested.

13 Defendant submitted Plaintiff's initial Complaint and it is
14 therefore already part of the record. See Def.'s Pet. for Removal,
15 Ex. A, Docket No. 1. It is unclear to the Court why judicial
16 notice of the Complaint is necessary or even appropriate.

17 Regarding the recent Magistrate Judges' opinions, the Court
18 is equally unclear why judicial notice is sought. Defendant is
19 free to cite to any appropriate authority when making legal
20 arguments in the pleadings. The Court, however, sees no reason to
21 take judicial notice of these opinions without any explanation by
22 Defendant of their relevance.

23
24 **IV. CONCLUSION**

25 For the foregoing reasons, Defendant's Application to Shorten
26 Time is DENIED. Defendant's Motion to Compel Medical Examination
27 is STAYED pending Plaintiff's opportunity to oppose. This

1 opposition must be filed no later than 12:00 p.m., Wednesday,
2 October 3, 2007, at which time the Court will deem the matter
3 submitted. Defendant's Request for Judicial Notice is DENIED.
4

5 IT IS SO ORDERED.
6

7 Dated: September 20, 2007



8 SAMUEL L. SMITH
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28